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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,471	05/10/2005	Ludger Borgmann	DE 020262	4995
24737 7590 12/18/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
PASS, NATALIE				
ART UNIT		PAPER NUMBER		
3686				
MAIL DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/534,471

**Applicant(s)**

BORGSMANN, LUDGER

**Examiner**

Natalie A. Pass

**Art Unit**

3686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/IC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: 3 March 2006 and 10 May 2005

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the application and amendment filed 10 May 2005. Claims 5-8 have been amended. Claims 1-10 are pending. The Information Disclosure Statements filed 3 March 2006 and 10 May 2005 have been entered and considered.

### ***Claim Objections***

2. Claim 6 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 6 recites “[a] diagnostic x-ray system ... [...] ... which comprises a mobile x-ray apparatus ... [...] ... as claimed in claim 1, and including ... [...] ...,” in the preamble. The test for a proper dependent claim is whether the dependent claim includes every limitation of the parent claim. A proper dependent claim shall not conceivably be infringed by anything which would not also infringe the basic claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. For the purpose of applying art, Examiner assumes this claim to be in independent form and to read “[a] diagnostic x-ray system ... [...] ... which comprises a mobile x-ray apparatus, and including ... [...] ....”

3. Claim 8 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 8 recites “[a] method for the transmission of data in a diagnostic x-ray system, ... [...] ... as claimed in claim 6 ..., in which

subsequent ... [...] ... ” in the preamble. The test for a proper dependent claim is whether the dependent claim includes every limitation of the parent claim. A proper dependent claim shall not conceivably be infringed by anything which would not also infringe the basic claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. For the purpose of applying art, Examiner assumes this claim to be in independent form and to read “[a] method for the transmission of data in a diagnostic x-ray system, in which subsequent ... [...] ... ”

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2-5, 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) Claims 2 and 3 recite the limitation "the selected and/or automatically adjusted parameters" in lines 5-6 and 3-4, respectively.

(B) Claim 5 recites the limitation "the third data transmission unit" in line 2.

(C) Claim 8 recites the limitation "the parameters selected and/or automatically adjusted" in lines 4-5.

There is insufficient antecedent basis for these limitations in the claims.

(D) Claims 4-5, 9-10 incorporate the features of claims 3, 8, through dependency, and are also rejected. See *Ex parte Lyell*, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990).

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, are rejected under 35 U.S.C. 102(b) as being anticipated by Dewaele, U.S. Patent Number 5757021.

(A) As per claims 8-10, Dewaele teaches a method for the transmission of data in a diagnostic X-ray system in which subsequent to the execution of an X-ray exposure in an X-ray apparatus the parameters selected and/or automatically adjusted for the X-ray exposure are combined so as to form a first data set which is transmitted to a further component of the system (Dewaele; Abstract, column 6, lines 17-22, column 9, lines 8-12, 50-60);

in which the first data set formed by the X-ray apparatus is transmitted to a mobile patient data terminal (Dewaele; column 6, lines 32-65) and a third data set is formed therefrom, which third data set comprises the parameters of the X-ray exposure (Dewaele; column 6, lines 17-20, column 9, lines 40-51, column 10, lines 1-4, column 12, lines 48-60), preselectable patient data (Dewaele; column 3, lines 12-14, 30-34, column 5, lines 13-16), as well as an identification

number of the image cassette on which the relevant X-ray exposure is stored (Dewaele; column 5, lines 62-64, column 12, lines 53-60); and

in which the third data set formed by the mobile patient data terminal is transmitted to a data processing unit and a fourth data set is formed therefrom, which fourth data set comprises the parameters of the X-ray exposure (Dewaele; column 6, lines 17-26, column 9, lines 40-51, column 10, lines 1-4, column 12, lines 48-60), preselectable patient data (Dewaele; column 3, lines 12-14, 30-34, column 5, lines 13-16) as well as the image data of the X-ray exposure (Dewaele; column 8, lines 29-35, column 9, lines 45-49, column 10, lines 1-4).

(B) Apparatus claims 1-3, 5 repeat the subject matter of claims 8, 10, 9, 10, respectively, as a set of elements rather than a series of steps. As the underlying processes of claims 8-10 have been shown to be anticipated by the teachings of Dewaele in the above rejections of claims 8-10, it is readily apparent that the system disclosed by Dewaele includes the apparatus to perform these functions. As such, these limitations are rejected of the same reasons given above for method claims 8-10, and incorporated herein.

(C) As per claim 4, Dewaele teaches a mobile patient data terminal as analyzed and discussed in claim 3 above comprising a bar code scanner for detecting an image cassette identification number as well as for forming a third data set by adding the image cassette identification number to the second data set (Dewaele; column 6, lines 32-65, column 8, lines 19-24, column 12, lines 48-60).

(D) System claims 6, 7 repeat the subject matter of claims 10, 9, respectively, as a set of elements rather than a series of steps. As the underlying processes of claims 9-10 have been shown to be anticipated by the teachings of Dewaele in the above rejection of claims 9-10, it is readily apparent that the system disclosed by Dewaele includes the apparatus to perform these functions. As such, these limitations are rejected for the same reasons given above for method claims 9-10, and incorporated herein.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied references, Asahina et al. U.S. Patent Number 5539798, McEvoy et al. U.S. Patent Number 5844961, Nishihara et al., U.S. Patent Application Publication Number 2004/0005033, Takasawa U.S. Patent Number 6542579, Shoji U.S. Patent Number 6433341, Wexler U.S. Patent Application Publication Number 2002/0097409, teach the environment of transmitting medical data.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (571) 272-6774. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/N. A. P./

Examiner, Art Unit 3686

December 15, 2009

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
Group Art Unit 3686